

Arun District Council

REPORT TO:	Constitution Working Party – 21 October 2024
SUBJECT:	Protocol for Councillor contact with Applicants, Developers, Contractors, Agents and Investors
LEAD OFFICER:	Daniel Bainbridge, Group Head of Law & Governance
LEAD MEMBER:	Cllr Gillian Yeates
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: It is essential that the Council has in place up-to-date protocols and guidance to assist and support councillors and to support the integrity of the planning process.	
DIRECTORATE POLICY CONTEXT: The Monitoring Officer is responsible for ensuring the Council operates lawfully and with probity across all of its functions.	
FINANCIAL SUMMARY: There are no direct financial implications arising from the proposals in this report.	

1. PURPOSE OF REPORT

To introduce a protocol to support councillors in understanding the approach and behaviour that is expected when dealing with third parties in the planning process, and to protect all councillors, the public and Council officers together with providing assurance of the impartiality and transparency of decision-making processes which govern planning, thus creating and maintaining public confidence in those processes.

2. RECOMMENDATIONS

2.1 It is recommended that the Constitution Working Party

- (i) endorses the 'Protocol for Councillor contact with Applicants, Developers, Contractors, Agents and Investors' and recommends its approval by Full Council and its inclusion within the Constitution; and
- (ii) recommends to Full Council that future reviews of the Protocol are conducted by the Standards Committee.

3. EXECUTIVE SUMMARY

- 3.1 The Chief Executive, the Monitoring Officer and the Director of Growth have identified that the Council's Planning Protocol provides limited guidance to councillors on how they should engage with third parties involved in the planning process. Strengthening this area of the Council's Constitution will ensure that councillors have access to the most up-to-date guidance to support probity in the planning process and the Council's overall governance framework.

4. DETAIL

- 4.1 The town and country planning system seeks to balance the competing rights and interests of developers, neighbours, the public and pressure groups. As such, it is essential that the system is seen to be operated with integrity so that those parties can engage with it with trust and confidence. The system also involves councillors in different - and potentially incompatible - capacities as ward and committee member which can lead to potential difficulties and challenge, including by judicial review. To assist councillors, it is therefore imperative that they have access to appropriate and up to date guidance.

- 4.2 The Council's Planning Protocol (Part 8, Section 3 of the Constitution) contains limited references regarding councillors attending meetings with developers (at paragraphs 9.2(iii) and (iv) of the Protocol):

“(iii) Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.

(iv) Members should not become drawn into any negotiations which should be done by officers (keeping interested members up to date) to ensure that the Authority's position is co-ordinated.”

- 4.3 This advice is correct but limited in scope, in that it relates to pre-application discussions and does not provide guidance to councillors on how they should (and should not) engage with third parties in all other stages of the planning process. It also does not cover situations where similar engagement may be sought in relation to other areas of the Council's business, such as property, licensing, and so on. Therefore the proposed protocol has been drafted with those areas also referred to, and the Protocol would sit separately to the Planning Protocol.

- 4.4 The proposed protocol is comprehensive in its scope while also aimed to be a document that can be easily understood by councillors, officers and third parties – those being, applicants, developers, contractors, agents and investors. The protocol also complies with national guidance, best practice and draws on experiences nationally where issues have arisen in this area of governance and lessons have been learned as a result.

- 4.5 Adopting a comprehensive protocol will support the Council's governance framework. The Protocol is intended to explain and supplement the Members' Code of Conduct and form part of the Constitution.
- 4.6 The draft Protocol is attached as Appendix 1 to this report.
- 4.7 Annexe 1 to the Protocol is a Protocol for Informal Presentations to Councillors relating to Development and provides detailed supplementary guidance to councillors and third parties on attending such presentations, and as with the main document it applies to all areas of the Council's business, including both Planning and Property functions.
- 4.8 This guidance is important as councillors have regularly received requests to attend such presentations and it is important that there is consistency for councillors, Council officers and third parties as to how such presentations should be arranged, set up, and take place. This also supports the Council's transparency and governance arrangements by ensuring there is no misunderstanding regarding the purpose of such arrangements.

5. CONSULTATION

The Constitution Working Party is the body with authority for reviewing the Constitution and making recommendations for change to the Full Council.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1 The Chief Executive and the Monitoring Officer have identified this as an area of the Council's governance arrangements which should be strengthened and therefore a 'do nothing' option is not considered appropriate.
- 6.2 Officers consider that this subject area requires its own protocol rather than amending the existing Planning Protocol.

7. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER

- 7.1 None associated with this report.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1 None associated with this report.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1 'The Members Planning Code of Good Practice' and 'Probity in Planning for Councillors and Officers' published by Lawyers in Local Government and the Local Government Association, respectively, have been held by the courts to provide sound guidance for councils in discharging their planning functions.
- 9.2 The Protocol helps to ensure councillors are aware of and comply with expected standards of conduct in public office in relation to planning.

10. HUMAN RESOURCES IMPACT

10.1 None associated with this report.

11. HEALTH & SAFETY IMPACT

11.1 None associated with this report.

12. PROPERTY & ESTATES IMPACT

12.1 None associated with this report.

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1 None associated with this report.

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1 None associated with this report.

15. CRIME AND DISORDER REDUCTION IMPACT

15.1 None associated with this report.

16. HUMAN RIGHTS IMPACT

16.1 None associated with this report.

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1 None associated with this report.

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BACKGROUND DOCUMENTS:

None.